

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

PENNSYLVANIA INTERSCHOLASTIC
ATHLETIC ASSOCIATION, INC.

Employer

and

Case 06-RC-152861

OFFICE AND PROFESSIONAL
EMPLOYEES INTERNATIONAL UNION

Petitioner

ORDER GRANTING REVIEW

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is granted as it raises a substantial issue warranting review solely with respect to whether the lacrosse officials are employees or independent contractors.¹ In all other respects, the request for review is denied.²

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., March 21, 2016

¹ Member Miscimarra also would grant review with respect to whether the Employer is a political subdivision. Additionally, he would review whether the lacrosse officials are joint employees of the Employer and the public schools that pay them under *BFI Newby Island Recovery*, 362 NLRB No. 186, slip op. at 15-21 (2015), which Member Miscimarra believes is potentially relevant to the issues reviewed by the Board in this case.

Although elections among seasonal employees normally take place at or near the season's peak, see *Bogus Basin Recreation Assn.*, 212 NLRB 833 (1974), under the unusual circumstances here – including the officials' high return rate year after year, the requirement that they register 11 months in advance of the upcoming season in order to officiate during that season, and the Regional Director's use of an appropriate eligibility formula – we are satisfied that the complement of voters was a substantial and representative complement of the officials who will work in the upcoming season. See *Sitka Sound Seafoods, Inc.*, 325 NLRB 685 (1998), enfd. 206 F.3d 1175 (D.C. Cir. 2000) (regional director properly scheduled winter election, using an eligibility formula to allow seasonal summer employees with "substantial continuing work ties" to vote by mail ballot). Accordingly, the Regional Director did not abuse her discretion by scheduling an off-season election in this matter.

² On February 19, 2016, the Petitioner filed a motion to expedite the processing of the request for review, to which the Employer filed an opposition and the Petitioner filed a further response. We deny that motion in light of our grant of review and in the absence of a "clear showing" that expedited treatment "is necessary under the particular circumstances of the case." Board's Rules and Regulations Sec. 102.67(j)(2).